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10/636,012 08/07/2003 Christopher M. Doran 2334 1575

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EXAMINER

DAVENPORT, MON CHERI S

ART UNIT

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2609

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/636,012

Applicant(s)

DORAN ET AL.

Examiner

Mon Cheri S. Davenport

Art Unit

2609

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/15/04, 6/23/05, and 4/7/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

This Action is in response to the Application filed August 7, 2003.

#### ***Information Disclosure Statement***

The references listed in the Information Disclosure Statements file on March 15, 2003, June 23, 2005, and April 7, 2006 have been considered by the examiner (see attached PTO-1449 form or PTO/SB/08A and 08B forms).

#### ***Claim Objections***

1. **Claims 1-6, 11, and 16** are objected to because of the following informalities:  
Packet based real-time media session is mention first but is not consistently mentioned.  
"Packet- based" should be inserted before real-time media session to be consistent.  
See Claim 1 (line 6), Claim 2 (line 13), Claim 3 (line 16), Claim 4 (line 22), Claim 5 (line 10), Claim 6, (line 15), Claim 11, (line 3), and Claim 16 (line 7). Appropriate correction is required.
2. Claim 6 objected to because of the following informalities: See line 17, "a given user one of the user station" is vague, it should say " given one of the user stations".  
Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 21 recites the limitation "real-time media communication" in which real-time media communication was not mention early. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-27** rejected under 35 U.S.C. 102(e) as being anticipated by Hutchison ( US Patent Application Publication 2003/0119536).

Regarding **Claim 1** Hutchison discloses an implicit floor control method for a packet-based real-time media session in which a plurality of user stations exchange media via a communication server on a packet-switched network, wherein the real-time media session defines a floor that only one of the user stations can hold at any time, the implicit floor control method comprising ( **see figure 7, [0016]**):

the communication server beginning to receive a media stream from a given one of the user stations (**see [0019], user request for access to arbitration controller**); and

the communication server responding to receipt of the media stream by granting the floor to the given user station only if no other one of the user stations currently holds the floor ( **see [0021], controller either grants or denies access, see [0031]** ) .

With respect to **Claims 2, 4 and 6**, it is noted that the language used by Applicant merely suggest or makes optional those features described as "Wherein"; It has been held that the recitation that an element is "wherein" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

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Regarding **Claim 2** Hutchison discloses everything as applied above (see *claim 1*). In addition the implicit floor control method includes:

wherein the real-time media session is a half-duplex session ( *see [0050], push to talk (PTT)*).

Regarding **Claim 3** Hutchison discloses everything as applied above (see *claim 1*). In addition the implicit floor control method includes:

where in the real-time media session is a full-duplex session (*see [0026], CDMA, GSM, WCDMA, cellular radio telephones*).

Regarding **Claim 4** Hutchison discloses an implicit floor control method for a packet-based real-time media session in which a plurality of user stations exchange media via a communication server on a packet-switched network, wherein the real-time media session is half-duplex and therefore defines a floor that only one of the user stations can hold at any time, the implicit floor control method comprising ( *see figure 1, [0010]*):

the communication server beginning to receive a first media stream from a given one of the user stations (*see [0019], user transmits for access to arbitration controller*);

if another one of the user stations currently holds the floor, the communication server disregarding the first media stream ( *see [0021], if access is denies audio is discarded*); and

if no other one of the user stations currently holds the floor, the communication server responsively granting the floor to the given user station ( *see [0021], controller grants or denies access* ) .

Regarding **Claim 5** Hutchison discloses everything as applied above (see *claim 4*). In addition the implicit floor control method includes:

wherein granting the floor to the given user station comprises:

beginning to forward media of the first media stream to each other user station of the plurality of user stations engaged in the real-time media session ( *see [0021], access is granted and audio is transmitted by controller*).

Regarding **Claim 6** Hutchison discloses an implicit floor control method for a packet-based real-time media session in which a plurality of user stations exchange media via a communication server on a packet-switched network, wherein the real-time media session defines a floor that only one of the user stations can hold at any time, the implicit floor control method comprising ( *see figure 1, [0010]*):

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a given user one of the user stations receiving from a user a request for the floor (*see [0024], arbitration is implemented in the wireless communication devices, the arbitration responsibility can migrate from device to device*); and

the given user station responsively beginning to send a first media stream to the communication server as an implicit floor request (*see [0024], arbitration is implemented in the wireless communication device, and will process access request*).

Regarding **Claim 7** Hutchison discloses everything as applied above (*see claim 6*). In addition the implicit floor control method includes:

wherein the given user station has a floor-control request mechanism and has a wireless communication interface for wirelessly communicating with a radio access network that provides connectivity with the packet-switched network, and wherein (*see [0024]*):

receiving the request for the floor from the user comprises detecting user actuation of the floor-control request mechanism (*see [0033], arbitration controller (wireless device), response to access request*); and

beginning to send the first media stream to the communication server comprises beginning to wirelessly transmit the first media stream via the wireless communication interface to the radio access network for transmission of the first media stream in turn over the packet-switched network to the communication server (*see [0035], access is granted, by controller the directs the audio over the broadcast link*).

Regarding **Claim 8** Hutchison discloses everything as applied above (*see claim 7*). In addition the implicit floor control method includes:

wherein the first media stream carries a digital representation of voice provided by the user (*see [0026], CDMA, GSM, WCDMA( digital network), see [0019], digital audio communication is transmitted to controller*).

Regarding **Claim 9** Hutchison discloses everything as applied above (*see claim 6*). In addition the implicit floor control method includes:

the communication server beginning to receive the first media stream as the implicit floor request (*see [0022], receiving audio serves as access request*); and

the communication server responsively granting the floor to the given user station if no other user station currently holds the floor (*see [0021], controller grants or denies access*).

Regarding **Claim 10** Hutchison discloses everything as applied above (*see claim 9*). In addition the implicit floor control method includes:

the communication server disregarding the first media stream if another user station currently holds the floor (*see [0032], access is denied , audio is discarded*).

Regarding **Claim 11** Hutchison discloses everything as applied above (*see claim 9*). In addition the implicit floor control method includes:

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wherein granting the floor to the given user station comprises( *see [0031], access is granted* ):

beginning to forward media of the first media stream to each other user station of the plurality of user stations engaged in the real-time media session ( *see [0031], access is granted audio is sent over broadcast link*).

Regarding **Claim 12** Hutchison discloses everything as applied above (see claim 6). In addition the implicit floor control method includes:

while the given user station is sending the first media stream to the communication server, the given user station beginning to receive a second media stream from the communication server ( *see [0035], WCD( user station), transmits over broadcast link, the server then send acknowledgement to WCD*); and

the given user station treating its receipt of the second media stream from the communication server as an implicit denial of the implicit floor request (see [0037], *access is not granted and controller sends an unfavorable acknowledgement*).

Regarding **Claim 13** Hutchison discloses everything as applied above (see claim 6). In addition the implicit floor control method includes:

wherein treating receipt of the second media stream from the communication server as an implicit denial of the implicit floor request comprises:

discontinuing sending the first media stream to the communication server (see [0037], *access is denied, controller does not direct audio over the broadcast link*).

Regarding **Claim 14** Hutchison discloses everything as applied above (see claim 12). In addition the implicit floor control method includes:

wherein treating receipt of the second media stream from the communication server as an implicit denial of the implicit floor request comprises:

alerting a user of the given user station that the floor has been denied ( *see [0037], access is denied, controller sends an unfavorable acknowledgement*).

Regarding **Claim 15** Hutchison discloses everything as applied above (see claim 13). In addition the implicit floor control method includes:

wherein alerting the user of the given user station that the floor has been denied comprises providing at least one alert selected from the group consisting of (i) an audible alert, (ii) a visual alert and (iii) a vibratory alert ( *see [0038], unfavorable acknowledgement is visual , audible or tactile indication(iii)*).

Regarding **Claim 16** Hutchison discloses an implicit floor control method for a packet-based real-time media session in which a plurality of user stations exchange media via a communication server on a packet-switched network, wherein the real-time media session is half-duplex and therefore defines a floor that only one of the user stations can hold at any time, the implicit floor control method comprising ( *see figure 1, [0010]*):

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a given one of the user stations receiving from a user a request for the floor while the user station is receiving an incoming media stream from the communication server ( *see [0034], controller direct audio over broadcast link, a user (2) is requesting access to the broadcast link* ) ; and

the given user station treating its receipt of the incoming media stream from the communication server as an implicit denial of the user's request for the floor ( *see [0037], access is denied, controller does not direct audio from user (2)* ).

Regarding **Claim 17** Hutchison discloses everything as applied above (see claim 16). In addition the implicit floor control method includes:

in response to the implicit denial, the given user station alerting the user that the floor is denied ( *see [0037], controller sends unfavorable acknowledgement , when access is denied* ).

Regarding **Claim 18** Hutchison discloses everything as applied above (see claim 17). In addition the implicit floor control method includes:

wherein alerting the user that floor is denied comprises providing the user with at least one alert selected from the group consisting of (i) an audible alert, (ii) a visual alert and (iii) a vibratory alert ( *see [0038], unfavorable acknowledgement is visual, audible or tactile indication(iii)* ).

Regarding **Claim 19** Hutchison discloses a communication server for bridging real-time media communications between a plurality of participants in a real-time media session, wherein the real-time media session defines a floor that only one of the participants can hold at any time, the communication server comprising:

means for detecting an incoming media stream from a given one of the participants ( *see figure 1, arbitration controller, see [0031]* ) ; and

means for treating the incoming media stream as an implicit floor request from the given participant ( *see [0022], detection of audio serves as access request* ).

Regarding **Claim 20** Hutchison discloses everything as applied above (see claim 19). In addition the communication server includes:

wherein the means for treating the incoming media stream as an implicit floor request comprises a processor programmed (i) to grant the floor to the given participant if no other participant currently holds the floor and (ii) to disregard the incoming media stream if another participant currently holds the floor ( *see [0021], controller grants or denies access, discarding when access is denied* ).

Regarding **Claim 21** Hutchison discloses everything as applied above (see claim 19). In addition the communication server includes:

wherein the real-time media communications are voice communications, and the incoming media stream is a sequence of Real-time Transport Protocol (RTP) packets ( *see [0026], communication standards* ).



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Regarding **Claim 22** Hutchison discloses a cellular mobile station (**wireless communication device**) comprising:

a floor-control request mechanism (*see figure 1, inherent in 14A-14N, see [0024]*);

a processor programmed to respond to user actuation of the floor-control request mechanism by beginning to send a first media stream as an implicit floor request to a communication server (**arbitration controller**)( *see figure 2, see [0024]*).

Regarding **Claim 23** Hutchison discloses everything as applied above (*see claim 22*). In addition the cellular mobile station includes:

wherein the first media stream comprises a sequence of packets carrying a digital representation of voice provided by a user (*see [0026], CDMA, GSM, WCDMA( digital network), see [0019], digital audio communication is transmitted to controller*).

Regarding **Claim 24** Hutchison discloses everything as applied above (*see claim 22*). In addition the cellular mobile station includes:

the processor is programmed to treat receipt of a second media stream from the communication server, while sending the first media stream to the communications server, as an implicit floor denial ( *see [0037], controller sends a unfavorable acknowledgement , when access is not granted* ) .

Regarding **Claim 25** Hutchison discloses everything as applied above (*see claim 24*). In addition the cellular mobile station includes:

the processor is programmed to discontinue sending the first media stream to the communication server in response to the implicit floor denial ( *see [0037], when access is not granted, controller does direct the audio from user*).

Regarding **Claim 26** Hutchison discloses everything as applied above (*see claim 24*). In addition the cellular mobile station includes:

the processor is programmed to alert a user about the floor denial ( *see [0038], when access is not granted controller will send unfavorable acknowledgement, as visual, audible, or tactile indication*).

Regarding **Claim 27** Hutchison discloses an implicit floor control method for a packet-based real-time media session in which a plurality of user stations exchange media via a communication server on a packet-switched network, the implicit floor control method comprising (*see figure 1, see [0010]*):

the communication server granting levels of floor to user stations in response to receipt of media streams from the user stations and based on an order in which the communication server begins to receive the media streams from the user stations ( *see [0034], broadcast priority*).

***Citation of Pertinent Prior Art***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Ross et al.** (US Patent Number 6,360,093) see abstract, see figure 1-8.

**Lekven et al.** (US Patent Number 5,884,196) see abstract, see figure 1-3.

**Mangal** (US Patent Application Publication 2003/0148785) see see abstract, see figure 1-6.

**Yoa et al.** (Us patent Number 5,983,099) see abstract.

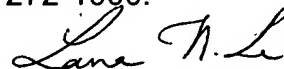
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mon Cheri S. Davenport whose telephone number is 571-270-1803. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eliseo Ramos-Feliciano can be reached on 571-272-7925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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